

AMENDED IN SENATE AUGUST 10, 2006  
AMENDED IN SENATE AUGUST 15, 2005  
AMENDED IN SENATE JULY 5, 2005  
AMENDED IN ASSEMBLY MAY 16, 2005  
AMENDED IN ASSEMBLY MAY 2, 2005  
AMENDED IN ASSEMBLY MARCH 31, 2005  
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 971**

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**Introduced by Assembly Member Jerome Horton  
(Coauthors: Assembly Members Bermudez and Cohn)**

February 18, 2005

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An act to amend Section 6126.6 of the Penal Code, relating to corrections.

### LEGISLATIVE COUNSEL'S DIGEST

AB 971, as amended, Jerome Horton. Corrections: superintendents. Existing law requires the Inspector General to review all candidates for warden and to advise the Governor as to their qualifications for the position.

This bill, ~~as of September 1, 2006,~~ would require the Inspector General to also review all candidates for appointment as superintendent of a juvenile correctional facility.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 6126.6 of the Penal Code is amended to  
2 read:

3     6126.6. (a) Prior to filling a vacancy for warden by  
4 appointment pursuant to Section 6050, or superintendent  
5 pursuant to Section 1049 of the Welfare and Institutions Code,  
6 the Governor shall first submit to the Inspector General the  
7 names of candidates for the position of warden *or superintendent*  
8 for review of their qualifications.

9     (b) Upon receipt of the names of those candidates and their  
10 completed personal data questionnaires, the Inspector General  
11 shall employ appropriate confidential procedures to evaluate and  
12 determine the qualifications of each candidate with regard to his  
13 or her ability to discharge the duties of the office to which the  
14 appointment or nomination is made.

15     Within 90 days of submission by the Governor of those names,  
16 the Inspector General shall advise in confidence to the Governor  
17 his or her recommendation whether the candidate is  
18 exceptionally well-qualified, well-qualified, qualified, or not  
19 qualified and the reasons therefore, and may report, in  
20 confidence, any other information that the Inspector General  
21 deems pertinent to the qualifications of the candidate.

22     (c) In reviewing the qualifications of a candidate for the  
23 position of warden or superintendent, the Inspector General shall  
24 consider, among other appropriate factors, his or her experience  
25 in effectively managing correctional facilities and inmate or ward  
26 populations; ability to deal effectively with employees, detained  
27 persons and other interested persons in addressing management,  
28 confinement, and safety issues in an effective, fair, and  
29 professional manner; and knowledge of correctional best  
30 practices.

31     (d) The Inspector General shall establish and adopt rules and  
32 procedures regarding the review of the qualifications of  
33 candidates for the position of warden or superintendent. Those  
34 rules and procedures shall establish appropriate, confidential  
35 methods for disclosing to the candidate the subject matter of  
36 substantial and credible adverse allegations received regarding  
37 the candidate's reputation and integrity which, unless rebutted,  
38 would be determinative of the candidate's unsuitability for

1 appointment. No rule or procedure shall be adopted that permits  
2 the disclosure to the candidate of information from which the  
3 candidate may infer the source, and no information shall either be  
4 disclosed to the candidate nor be obtainable by any process  
5 which would jeopardize the confidentiality of communications  
6 from persons whose opinion has been sought on the candidate's  
7 qualifications.

8 (e) All communications, written, verbal or otherwise, of and to  
9 the Governor, the Governor's authorized agents or employees,  
10 including, but not limited to, the Governor's Legal Affairs  
11 Secretary and Appointments Secretary, or of and to the Inspector  
12 General in furtherance of the purposes of this section are  
13 absolutely privileged from disclosure and confidential, and any  
14 communication made in the discretion of the Governor or the  
15 Inspector General with a candidate or person providing  
16 information in furtherance of the purposes of this section shall  
17 not constitute a waiver of the privilege or a breach of  
18 confidentiality.

19 (f) When the Governor has appointed a person to the position  
20 of warden or superintendent who has been found not qualified by  
21 the Inspector General, the Inspector General shall make public  
22 that finding, after due notice to the appointee of his or her  
23 intention to do so. That notice and disclosure shall not constitute  
24 a waiver of privilege or breach of confidentiality with respect to  
25 communications of or to the Inspector General concerning the  
26 qualifications of the appointee.

27 (g) No person or entity shall be liable for any injury caused by  
28 any act or failure to act, be it negligent, intentional, discretionary,  
29 or otherwise, in the furtherance of the purposes of this section,  
30 including, but not limited to, providing or receiving any  
31 information, making any recommendations, and giving any  
32 reasons therefore.

33 (h) As used in this section, the term "Inspector General"  
34 includes employees and agents of the Office of the Inspector  
35 General.

36 (i) At any time prior to the receipt of the review from the  
37 Inspector General specified in subdivision (b), the Governor may  
38 withdraw the name of any person submitted to the Inspector  
39 General for evaluation pursuant to this section.

1 (j) No candidate for the position of warden or superintendent  
2 may be appointed until the Inspector General has advised the  
3 Governor pursuant to this section, or until 90 days have elapsed  
4 after submission of the candidate's name to the Inspector  
5 General, whichever occurs earlier. The requirement of this  
6 subdivision shall not apply to any vacancy in the position of  
7 warden or superintendent occurring within the 90 days preceding  
8 the expiration of the Governor's term of office, provided,  
9 however, that with respect to those vacancies, the Governor shall  
10 be required to submit any candidate's name to the Inspector  
11 General in order to provide him or her an opportunity, if time  
12 permits, to review and make a report.

13 (k) Nothing in this section shall be construed as imposing an  
14 additional requirement for an appointment or nomination to the  
15 position of warden or superintendent, nor shall anything in this  
16 section be construed as adding any additional qualifications for  
17 the position of warden or superintendent.

18 ~~(l) Wardens or superintendents~~ who have been appointed but  
19 not yet confirmed as of July 1, 2005, need not be reappointed to  
20 the position after that date, but are subject to the review process  
21 provided in this section.

22 ~~SEC. 2. The changes made to Section 6126.6 of the Penal~~  
23 ~~Code by Section 1 of this act shall become operative on~~  
24 ~~September 1, 2006.~~